

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

WILL CO. LTD. a limited liability
company organized under the laws of
Japan,

Plaintiff,

vs.

KAM KEUNG FUNG, aka 馮錦強, aka
FUNG KAM KEUNG, aka KEUNG
KAM FUNG, aka KAM-KEUNG FUNG,
aka KEVIN FUNG, an individual;
FELLOW SHINE GROUP LIMITED, a
foreign company, and DOES 1-20, d/b/a
AVGLE.COM

Defendants.

Case No. 3:20-cv-05666-RSL

**DECLARATION OF KAM KEUNG
FUNG IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS**

**DECLARATION OF KAM KEUNG FUNG IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS**

I, Kam Keung Fung, declare and state as follows:

1. My name is Kam Keung Fung. I am over the age of 18 years. I am a software developer and I live and work in Hong Kong. I am personally named as a defendant in the above referenced case. I make this declaration based upon personal knowledge. All statements contained in this declaration are true and correct to the best of my knowledge. If called as a witness, I could and would testify as to the facts set forth in this declaration.

1 2. I was born in Mainland China. I currently live in Hong Kong and have
2 been a permanent resident of Hong Kong for over thirty years.

3 3. I do not work for Fellow Shine Group Limited (“FSG”), do not hold an
4 officer position in FSG, nor do I have any ownership interest in FSG.

5 4. I do not own nor operate the website Avgle.com.

6 5. The allegations in the Complaint which state that I own and/or operate the
7 Avgle.com website are false.

8 6. I am the Director of a Hong Kong firm, Awesapp Ltd.

9 7. My relationship to Avgle.com and FSG is as follows: my firm, Awesapp
10 Ltd., was hired by FSG to adapt source code from adultvideoscript.com (“AVS”) for the
11 needs of Avgle.com, and to provide general software development services for FSG in
12 respect to the Avgle.com website. I was involved in deploying and launching the
13 Avgle.com website including assisting with items such as content delivery networks, web
14 hosting, advertising networks, analytics, and domain name registration, among other
15 things. When I used the AVS template, I used the English language version of the
16 template because it was the only language available.

17 8. All work that I did form FSG I did when physically located in Hong Kong.

18 9. I purchased the domain name Avgle.com for FSG and later transferred the
19 domain name to a third party. I purchased the Avgle.com domain name when I was in
20 Hong Kong, and transferred it to this third party when I was in Hong Kong.

21 10. On behalf of Avgle.com and FSG, and from my workspace in Hong Kong,
22 I engaged with Cloudflare, Inc., to provide content delivery networks, domain name

1 resolution services, Distributed Denial of Services attacks (DDoS) protection for
2 Avgle.com. I used the self-service options on Cloudflare's website to obtain these
3 services and I accessed them from my workspace in Hong Kong.

4 11. On behalf of Avgle.com and FSG, and from my workspace in Hong Kong,
5 I engaged with Novogara BV to provide website hosting services for Avgle.com.
6 Novogara BV is a company located in Amsterdam, Netherlands.

7 12. On behalf of Avgle.com and FSG, and from my workplace in Hong Kong, I
8 engaged with histats.com to obtain website visitor analytics for Avgle.com. When doing
9 this, I only utilized histats.com's self-service online application. Neither I nor FSG had
10 any additional contacts with histats.com aside from utilizing their self-service website
11 from Hong Kong. There is a link on the bottom of the Avgle.com website to
12 histats.com's analytics for Avgle.com.

13 13. On behalf of Avgle.com and FSG, and from Hong Kong, a computer
14 programmer under my direction signed Avgle.com up with Avgle.com's advertising
15 broker, a Canadian Company, Tiger Media, Inc. d/b/a JuicyAds. The self-service
16 function on JuicyAds' website was used for signing up Avgle.com.

17 14. I do not have any relationship with the domain name registrar, Tucows, Inc.

18 15. All work that I and Awesapp Ltd. did for Avgle.com was done from Hong
19 Kong.

20 16. All expenses I and Awesapp Ltd. incurred with regard to setting up the
21 services described above for Avgle.com were reimbursed in full by FSG.

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1 17. The allegedly infringing files referenced in the Complaint in this matter are
2 user generated content – that is, content that was uploaded by users.

3 18. I did not upload the allegedly infringing files referenced in the Complaint in
4 this matter; I did not direct anyone to upload the files; nor do I have any knowledge that
5 anyone on behalf of FSG or Avgle.com uploaded the allegedly infringing files referenced
6 in the Complaint.

7 19. I do not have any commercial relationships with any of the users of
8 Avgle.com that I am aware of.

9 **No Business in Washington or the United States**

10 20. All of the work that I have done for FSG and Avgle.com has been out of
11 Hong Kong.

12 21. I have only been to the United States on one occasion, in 1998. I was
13 visiting as a minor child and did not conduct any business in the United States when I
14 was there. I did not visit Washington State on my one and only visit to the United States.

15 22. I do not have employees who regularly travel to the United States, in
16 general, or Washington in particular, to conduct business. Nor do I conduct any business
17 whatsoever in the United States.

18 23. I do not have any employees in the United States (including Washington).

19 24. I do not have a bank account in the United States (including Washington).

20 25. I have never owned or leased real estate in the United States (including
21 Washington).

1 26. I have never had a telephone number in the United States (including
2 Washington).

3 27. I have never paid taxes in or to the United States or Washington.

4 **Travel to the United States**

5 28. It would be extremely burdensome and costly for me to travel to
6 Washington for trial or other proceedings in this case.

7 29. I do not have a visa to visit the United States.

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1 I declare under penalty of perjury that the foregoing facts are true and correct.

2 Executed on December 22, 2020 at

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5 Kam Keung Fung